

UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte ADAM M. GILBERT  
and  
GARY P. STACK

Application No. 10/663,533

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on October 5, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the file indicates that on April 11, 2005, appellants filed an Appeal Brief in accordance with the new rules under 37 CFR § 41.37(c), effective September 13, 2004. However, a review of the Appeal Brief reveals that the Appeal Brief filed on April 11, 2005 does not contain the headings "Evidence Appendix" and "Related Proceedings Appendix," as set forth in 37 CFR § 41.37(c)(1)(ix) and (c)(1)(x).

Furthermore, in response to appellants' Brief, the examiner entered an Examiner's Answer on July 11, 2005. However, the Examiner's Answer does not comply with the headings as set forth in the new rules under 37 CFR § 41.37(c), namely, the headings of "Summary of Claimed Subject Matter," "Claims Appendix," "Evidence Relied Upon" and "Related Proceedings Appendix."

Moreover, appellants filed a Reply Brief on September 12, 2005. There is no evidence in the record that the examiner has responded to appellants' Reply Brief filed on September 12, 2005.

Accordingly, it is

ORDERED that the application is returned to the examiner to:

- (1) notify the appellants to submit the missing Evidence Appendix and Related Proceedings Appendix, as set forth in 37 CFR § 41.37(c)(1)(ix) and (c)(1)(x);
- (2) to consider appellants' Evidence Appendix and Related Proceedings Appendix; ,
- (3) to vacate the Examiner's Answer mailed on July 11, 2005 and issue a revised Examiner's Answer in compliance with the new rules effective September 13, 2004;

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(4) to respond in writing to appellants' Reply Brief filed  
on September 12, 2005 and

(4) for such further action as may be appropriate.

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By:

  
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CRAIG R. FEINBERG  
Program and Resource Administrator  
(571) 272-9797

cc: Woodcock Washburn LLP  
One Liberty Place, 46th Floor  
1650 Market Street  
Philadelphia, PA 19103

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